

**JAMES M. MARTIN,**  
**Plaintiff,**  
**v.**  
**LIEUTENANT JOHNNY MCDANIEL and**  
**WAKENYA HARRIS,**  
**Defendants.**

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**CIVIL ACTION NO. 5:11-CV-192 (MTT)**

This matter is before the Court on the Recommendation of United States Magistrate Judge Stephen Hyles. (Doc. 5). The Magistrate Judge, having granted the Plaintiff's motion to proceed in forma pauperis, recommends dismissing the Federal Tort Claims Act ("FTCA") and 42 U.S.C. § 1983 claims against Defendant Wakenya Harris because these claims may not be asserted against a private individual for private conduct. The Magistrate Judge recommends dismissing the FTCA claims against Defendant Lieutenant Johnny McDaniel because he is a state, not federal, employee. The Magistrate Judge also recommends dismissing the property deprivation claims against the Defendants because the "Plaintiff has failed to allege how either Defendant is in any way connected to or responsible for his loss of property." The Plaintiff filed an objection to the Recommendation.<sup>1</sup> (Doc. 6). Pursuant to 28 U.S.C. § 636(b)(1), the

<sup>1</sup> The Objection was received one day after the Recommendation was submitted in the CM/ECF system. Although there is no evidence of when the Objection was mailed, the Court considered it timely filed.

Court has thoroughly considered the Objection and has made a de novo determination of the portions of the Recommendation to which the Petitioner objects.

The Court accepts and adopts the findings, conclusions and recommendations of the Magistrate Judge. All claims against Defendant Harris, the FTCA claim against Defendant McDaniel, and the property deprivation claim against Defendant McDaniel are **DISMISSED**. The Plaintiff's § 1983 claim against Defendant McDaniel shall remain pending.

**SO ORDERED**, this the 1st day of July, 2011.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT